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### REMARKS

Claims 1-7, 12-16 and 18-20 are now pending in the application. Claims 8-11 and 17 have been canceled. Claims 1, 12 and 18 have been amended. Claim 1 has been amended to include the limitations of now-canceled dependent Claim 8, and Claim 12 has been amended to include the limitations of now-canceled dependent Claim 17. Claim 18 has been amended to correct dependency. Claims 1 and 12 are the only independent claims under consideration.

Dependent Claim 11 was objected to for the dependency problem noted in the Action. The cancellation of Claim 11 renders this objection moot.

Claims 1-4, 9-16 and 20 were rejected under 35 USC 103(a) as being unpatentable over US Patent Application Publication US 2003/0095688 A1 (Kirmuss) in view of US Patent Application Publication US 2003/0112929 A1 (Chuang); and remaining Claims 5-8 and 17-19 were rejected as being unpatentable over Kirmuss and Chuang in view of US Patent 5,794,164 (Beckert et al.).

The amendments to each of independent Claims 1 and 12, to incorporate the limitations of Claims 8 and 17 respectively, renders the rejection based on Kirmuss and Chuang moot. Therefore, the rejection based on the alleged combined teachings of Kirmuss, Chuang and Beckert is respectfully traversed and reconsideration is requested.

Independent Claim 1, as amended herein, is directed to an in-car video system including a video camera fixably mounted to a vehicle for capturing an image of an event and producing a corresponding video stream, a digital video recorder fixably mounted to the vehicle, the digital video recorder having a receiving area being adapted to operably couple a flash memory card to the digital video recorder so that the flash memory functions as a digital video storage medium, and a controller coupled to the video recorder to control writing of data that is representative of the video stream to a flash memory to thereby generate a stored video record of the event. *The digital video recorder and controller are integrally packaged and sized to fit substantially within a factory-sized radio opening of a production vehicle having a police package option, and, is in a direct operative relationship with a user seated in the front seat of the vehicle.*

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Independent Claim 12, as amended herein, is directed to a method of operating a digital video recorder, in a vehicle-mounted video system including a car-mounted camera, the method including the steps of receiving a flash memory card in a receiving area of the digital video recorder, the receiving area being adapted to operably couple the flash memory card to the digital video recorder so that the flash memory functions as a digital video storage medium, receiving a video stream of an event captured by the camera, converting the video stream to a form that is writable to the flash memory, writing the converted video stream to the flash memory to thereby store a record of the event on the flash memory, and *fixably positioning the digital video recorder substantially within a dashboard area of the vehicle so that the digital video recorder is in a direct operative relationship with a user seated in the front seat of the vehicle.*

The Office Action takes the position (page 5 of Action) that Kirmuss and Chuang teach all of the elements recited in each of the independent claims (the claims amended to include the limitations of Claims 8 and 17), but the Examiner recognizes that Kirmuss does *not* show, teach or suggest the invention as claimed where the digital video recorder is packaged in a small enclosure that fits within the passenger compartment of the police vehicle, and more specifically in the dashboard area of the vehicle that is normally occupied by the radio (i.e., the entertainment system radio/CD/cassette "head"...what is referred to in the specification as the factory-installed radio or sound system as compared with the two-way police radio that is installed by the police agency which operates the vehicle).

As disclosed and claimed in the present invention, placing the DVR in the dashboard area of the car, puts it in a "direct operative relationship" with the operator (e.g., the police officer operating the vehicle and DVR) seated in the front seat of the vehicle. That is, in Applicant's claimed invention, the DVR is in the *passenger compartment* with the operator (just as the normal sound system is in the passenger compartment).

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As 'motivation' to combine with Beckert (which allegedly teaches a smart card media reader sized to fit the standard DIN sized radio opening according to the Examiner), the Office Action asserts that Kirmuss teaches a small compartment (smaller than a PC or VCR-based system) and notes that "for a motorcycle, the embodiment may be mounted in a sealed radio compartment saddle" (Paragraph [0052] of Kirmuss).

However, Applicant respectfully submits that first, the alleged impetus to combine Kirmuss with Beckert *does not exist*. Specifically, Kirmuss teaches an enclosure (or "airtight chassis") for the event-recording device that is self-contained with heating and/or cooling systems and isolation from shock and vibration (see e.g. paragraphs [0039], [0040], [0050 – 0052], [0152], [0164], [0189 – 0207]). Clearly, Kirmuss contemplates an environment for the DVR that is *separate from that of the operator*. In other words, Kirmuss very specifically teaches the need to heat and cool the DVR *separately*, whereby the DVR in the present invention is heated or cooled by the heating and/or air conditioner of the car as it is co-located with the operator *inside the passenger compartment*.

Therefore, the motivation alleged in the Office Action to be found in Kirmuss, not only does not exist, but in fact Kirmuss *teaches away from* such an inventive concept – of providing a DVR in the passenger compartment of the vehicle.

Again, even assuming *arguendo* that Beckert discloses this teaching acknowledged to be missing from Kirmuss, Kirmuss cannot be combined with Beckert to arrive at the claimed invention because it is improper to combine references where the references *teach away from* their combination. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983). Of course, a prior art reference must be considered in its entirety, *i.e.*, as a whole, including portions that would *lead away from* the claimed invention. W.I. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

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In sum, Kirmuss teaches away from providing a DVR in the passenger compartment of a vehicle because Kirmuss teaches an enclosure for the DVR that is self-contained with heating and/or cooling systems and isolation from shock and vibration (i.e., *not within* the passenger compartment).

For at least the foregoing reasons, each of independent Claims 1 and 12 as amended herein is believed to be clearly patentable over any permissible combination of the teachings of Kirmuss, Chuang and Beckert. In addition, dependent Claims 2-7, 13-16 and 18-20 are believed patentable as depending from a patentable independent Claim 1 or 12, and for reciting further distinguishing limitations thereover.

Since the Applicant has fully responded to each rejection set out in the Office Action, it is respectfully submitted that in regard to the above amendment and remarks that the pending application is patentable over the art of record and prompt review and issuance is accordingly requested. Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone the Applicant's undersigned attorney at (908) 518-7700 in order that any outstanding issues be resolved.

Respectfully submitted,

  
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